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**OFFICE OF PETITIONS**

In re Application of  
Abbott et al.  
Application No. 09/825,159  
Filed: April 2, 2001  
Attorney Docket No. 890057.408C

DECISION GRANTING PETITION

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT" filed on December 07, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of allowance from a determination of 280 days to a determination of nine hundred and eighty-one (981) days.

Applicants application for PTA is **GRANTED**. The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect this decision. The proper amount of PTA at the time of the mailing of the notice of allowance is 981 days.

Applicants assert that the Office erred in the PTA calculation. The Office provided six-hundred and eighteen-days of administrative delay for the failure to initially act upon the application within 14 months of the filing date of the application. See 37 CFR 1.702(a)(1). Applicants agree with this determination. However, applicants disagree with the three hundred and fifty-one reduction under 1.704(b). Applicants assert that the amendment was received within three months as evidenced by the postcard receipt. Applicants assert that the Office date that the used in the PALM was the day that applicants mailed a courtesy copy of the earlier filed response date.

A review of the file reflects that applicants arguments are persuasive. Applicants have submitted a postcard receipt as evidence of the date of the response to the February 10, 2004 Office action. A postcard receipt that properly identifies the items which are being filed serves a *prima facie* evidence of receipt of such information within the USPTO. See MPEP 503. Accordingly, applicants response was timely filed within the three-month period under 37 CFR 1.704(b) and the three hundred and fifty-one day (351) assessment was in error. In addition, the Office additionally failed to meet the requirement of 37 CFR 1.702(a)(2) because the Office did not reply to the May 10, 2004 until September 8, 2005. An additional Office delay of three hundred and sixty-three (363) days rather than 13 days should have been assessed. Overall the accurate determination at the time of the mailing of the notice of allowance is nine hundred and eighty-one (981) days.

After the mailing of this decision, the Office will forward this patented file to the Office of Patent Publications for a prompt issuance of the patent.

Any delays in the failure to issue this application within four months of the payment of the issue fee as required in 37 CFR 1.702(a)(4) will be reflected on the issue notification letter that is mailed to applicants approximately three weeks prior to issue date. Any delays by applicant for submissions by applicants that are reductions under 37 CFR 1.704(c)(10) will be reflected in the PTA determination that is provided to applicant in the issue notification letter.

The Office has assessed the \$200.00 fee. No additional fees are required in this deciding this application.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.



Kery Fries  
Senior Legal  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
For Patent Examination Policy

cc: adjusted Pair calculation

Day : Monday  
Date: 5/15/2006

Time: 11:02:27

**PALM INTRANET****PTA Calculations for Application: 09/825159**

Application Filing Date:	04/02/2001	PTO Delay (PTO):	631
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	351
Post-Issue Petitions:	0	Total PTA (days):	981
PTO Delay Adjustment:	701		

**File Contents History**

Number	Date	Contents Description	PTO	APPL	START
46	05/15/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		13	
45	05/15/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	363		
44	05/15/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	351		
33	09/08/2005	MAIL NOTICE OF ALLOWANCE	13		25
32	08/18/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	08/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
30	08/18/2005	ISSUE REVISION COMPLETED			
29	08/09/2005	MAIL EXAMINER'S AMENDMENT			
28	08/06/2005	EXAMINER'S AMENDMENT COMMUNICATION			
27	08/06/2005	NOTICE OF ALLOWABILITY			
26	06/08/2005	DATE FORWARDED TO EXAMINER			
25	04/26/2005	RESPONSE AFTER NON-FINAL ACTION		351	14
24	07/19/2001	NEW OR ADDITIONAL DRAWING FILED			
23	03/15/2005	MISCELLANEOUS INCOMING LETTER			
22	04/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	03/21/2005	REFERENCE CAPTURE ON IDS			
20	03/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	04/25/2005	CORRESPONDENCE ADDRESS CHANGE			
18	04/25/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
17	12/20/2002	REFERENCE CAPTURE ON IDS			
16	07/16/2002	REFERENCE CAPTURE ON IDS			
15	05/10/2004	WORKFLOW INCOMING AMENDMENT IFW			
14	02/10/2004	MAIL NON-FINAL REJECTION	618		-1

13	02/08/2004	NON-FINAL REJECTION			
12	01/05/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	09/08/2003	CASE DOCKETED TO EXAMINER IN GAU			
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8	07/19/2001	PRELIMINARY AMENDMENT			
7	11/08/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	10/01/2001	APPLICATION DISPATCHED FROM OIPE			
5	06/22/2001	APPLICATION IS NOW COMPLETE			
4	06/22/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
3	06/22/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/16/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/02/2001	INITIAL EXAM TEAM NN			

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#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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**PALM INTRANET**

PTA Calculations for Application: <u>09/825159</u>			
Application Filing Date:	<u>04/02/2001</u>	PTO Delay (PTO):	<u>631</u>
Issue Date of Patent:		Three Years:	<u>0</u>
Pre-Issue Petitions:	<u>0</u>	Applicant Delay (APPL):	<u>351</u>
Post-Issue Petitions:	<u>0</u>	Total PTA (days):	<u>280</u>
PTO Delay Adjustment:	<u>0</u>		

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mgj  
4/21

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